

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Pine Belt Cellular, Inc.

Petition for Designation as an
Eligible Telecommunications
Carrier

CC Docket No. 96-45
FCC 97-419

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Federal Communications Commission
Office of Secretary

**PETITION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

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Dated: March 2, 2006

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SUMMARY

Pine Belt Cellular, Inc. ("Pine Belt"), in this Petition for Designation as an Eligible Telecommunications Carrier ("Petition") requests designation as an eligible telecommunications carrier ("ETC") for its rural service areas in Alabama. Pine Belt was granted ETC authority for non-rural portions of its service territory in 2002. Pine Belt is not requesting redefinition of any telephone service areas, and has included a map of the proposed additional ETC service area, and a list of affected wire centers.

The Alabama Public Service Commission lacks jurisdiction to consider Pine Belt's request for ETC authority. Pine Belt meets all statutory and regulatory requirements for ETC designation to serve rural Alabama customers. Pine Belt provides universal service offerings, including voice-grade access to the public switched network, local usage plans, the functional equivalent of touch tone signaling, single party service, access to emergency services, operator services, interexchange service and directory assistance. Pine Belt participates in Lifeline, and offers toll blockings. Pine Belt provides the supported services using its own facilities, advertises its universal service offering, and will use all funds consistent with the rules and policies of the FCC and the Communications Act. Pine Belts commits to provide rural customers with comparable to services provided by other rural carriers, will provide service to requesting customers, and demonstrates in its five year construction plan that it intends to use universal service funds to construct additional facilities and provide improved service offerings to customers in rural Alabama. Pine Belt understands the needs of its market area, and commits to abide by the CTIA Code for Wireless Service. Pine Belt's requested ETC service area includes entire study areas, and grant of ETC authority to Pine Belt will have minimal impact on

the universal fund. Pine Belt commits to submit annual reports to the Commission detailing its compliance with FCC rules and policies.

Pine Belt is a well-qualified applicant, and grant of ETC authority to Pine Belt for its rural service areas will increase competitive choice and quality service option to rural Alabama consumers and is in the public interest. Pine Belt respectfully requests that this Commission grant this Petition.

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	Docket No. 96-45
Pine Belt Cellular, Inc.)	FCC 97-419
)	
Petition for Designation as an)	
Eligible Telecommunications)	
Carrier)	

**PETITION FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

Pine Belt Cellular, Inc. ("Pine Belt"), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended ("Act"), and the rules and procedures of the Federal Communication Commission ("FCC" or "Commission"),¹ hereby petitions the Commission to designate Pine Belt as an eligible telecommunications carrier ("ETC") for its rural service areas in Alabama, as depicted in Exhibit 3. The Pine Belt's licensed service area includes the requested areas.² The Alabama Public Service Commission ("APSC") lacks jurisdiction to consider Pine Belt's request for ETC authority,³ and therefore the FCC clearly has jurisdiction under Section 214(e)(6) to consider and grant this petition. Pine Belt is not requesting any redefinition of telephone service areas. Pine Belt meets all the statutory and regulatory requirements for ETC designation to serve rural Alabama customers. As demonstrated in this

¹ A certification that Pine Belt meets the criteria for ETC status and complies with the Anti-Drug Abuse Act is attached to this Petition as Exhibit 1.

² Pine Belt's service area map appears on Exhibit 3. Pine Belt previously was granted authority to serve the non-rural portions of its Alabama territory by order released May 24, 2002, DA 02-12552.

³ See *Pine Belt Cellular, Inc. and Pine Belt PCS, Inc.*, Alabama PSC Docket U-4440, March 12, 2002, attached as Exhibit 2.

petition, the designation of Pine Belt as an ETC for the requested service territory will serve the public interest.

I. PINE BELT PROVIDES UNIVERSAL SERVICE OFFERINGS

Pine Belt is a commercial mobile radio service provider ("CMRS"), licensed by the Commission to provide services in Alabama Rural Service Area 3B2 for cellular services and the Selma basic trading area (FCC Market B415) for personal communications services.⁴ Pine Belt is affiliated with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama.

Pine Belt seeks designation as an eligible telecommunications carrier to provide wireless service in the Alabama wireline exchange areas listed in Exhibit 3. Pine Belt seeks ETC designation to expand its telecommunications offerings to consumers within its authorized wireless service areas. Pine Belt provides all of the services and functionalities supported by the federal universal service program, enumerated in Section 54.101(a) of the Commission's rules, throughout its service area in Alabama. Upon ETC designation, Pine Belt will make available to consumers a universal service offering over its existing networks infrastructure and spectrum, including the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used by the company to serve its customers. Pine Belt also will provide service to any requesting customer within the designated service areas, and if necessary will deploy any additional facilities necessary to do so.

⁴ The requested service areas are shown in Exhibit 3.

II. PINE BELT SATISFIES THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Pine Belt satisfies the necessary elements to be designated as an ETC by the Commission, as detailed below.

A. Pine Belt is not Subject to the Jurisdiction of the Alabama Public Service Commission ("APSC")

Pine Belt provides commercial mobile radio service ("CMRS"), and the Commission has previously recognized that a CMRS provider may seek designation as an ETC.⁵ Section 332(c)(3) of the Act precludes rate and entry regulation of CMRS providers by state public utility commissions.⁶ This Commission has jurisdiction, under Section 214(e)(6), to designate CMRS providers as ETCs.

Consistent with the foregoing, the APSC, in an order attached to this Petition as Exhibit 2, has concluded that Pine Belt is not subject to state jurisdiction in Alabama and therefore must seek ETC designation from the FCC pursuant to Section 214(e)(6).

B. Pine Belt Offers all of the Services Supported by the Federal High-Cost Universal Service Program

Pine Belt satisfies the FCC's requirements that an ETC designated pursuant to Section 214(e)(6) "offer, or will be able to offer all of the services designated for support by the Commission."⁷ As described below, Pine Belt currently offers each of the supported services

⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, First Report and Order, 12 FCC Rcd. 8776, 8858-59, ¶ 145 (1997) ("Universal Service First Report and Order"); *Federal-State Joint Board on Universal Service, Access Charge Reform*, Seventh Report and Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45, Fourth Report and Order in CC Docket No. 96-262, and Further Notice of Proposed Rulemaking, FCC 99-119 at ¶ 72 (released May 28, 1999).

⁶ 47 U.S.C. § 332(c)(3). See also *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking, FCC 99-204, ¶¶ 78, 82 (released September 3, 1999) (suggesting that FCC may designate CMRS providers as ETCs under 47 U.S.C. 214(e)(6) and 332(c)(3)).

⁷ *Designation of Fort Mojave Telecommunications, Inc., et al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 13 FCC Rcd. 4547, 4553, ¶ 11 (CCB 1998) ("Fort

described in Section 54.101(a) of the Commission's rules.⁸ Pine Belt will make available a universal service offering that includes all of the supported services for consumers in the designated service areas in Alabama.

1. Voice-Grade Access to the Public Switched Network. As an existing CMRS service provider in Alabama, Pine Belt provides voice-grade access to the public switched network. Through interconnection agreements with incumbent carriers Pine Belt is able to originate and terminate telephone service for all of its subscribers.

2. Local Usage. Pine Belt will offer throughout its service areas several service options that include local usage in monthly service plans. Pine Belt will offer its universal service customers a rate plan that includes unlimited local usage. Pine Belt will comply with ETC designation requirements by offering such unlimited local usage calling plans.

3. Functional Equivalent of Touch-Tone ("DTMF") Signaling. Pine Belt currently uses out-of-band digital signaling and in-band multi-frequency ("MF") signaling that is functionally equivalent to DTMF signaling. Pine Belt therefore meets the requirement to provide DTMF signaling or its functional equivalent.⁹

4. Single Party Service. Pine Belt meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.¹⁰

5. Access to Emergency Service. Pine Belt currently offers access to emergency service throughout its cellular service area by dialing 911. Enhanced 911 ("E911"), which includes the capability of providing both automatic numbering information ("ANI") and automatic location information ("ALI"), is required only if a public emergency service provider

Mojave"). A declaration attesting to Pine Belt's ability and commitment to offer each of the supported services is attached hereto at Exhibit 1.

⁸ 47 C.F.R. § 54.101(a).

⁹ *Universal Service First Report and Order*, 12 FCC Rcd. at 8815, ¶ 71 (1997).

¹⁰ *Id.* at 8810, ¶ 62.

makes arrangements for the delivery of such information.¹¹ Pine Belt has completed Phase I E911 implementation in all jurisdictions that have requested it (four of the five counties served by Pine Belt). No public emergency service provider in Pine Belt's service territory has requested Phase II compliance. The Commission has already held that wireless providers may be designated as ETCs despite the current unavailability of E911.¹² By providing 911 service and being capable and ready to provide E911 service upon request, Pine Belt meets the requirement to provide access to emergency service.

6. Access to Operator Services. Pine Belt offers its subscribers access to operator services and will make such services available throughout its designated service area.

7. Access to Interexchange Service. Pine Belt provides all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements the Company has with an interexchange carrier. Pine Belt acknowledges that it may be required to provide equal access to interexchange carriers in its designated service area if no other ETC is providing equal access within the service area.

8. Access to Directory Assistance. Pine Belt meets this requirement by providing all of its customers with access to directory assistance by dialing "411" or "555-1212."

9. Toll Limitation for Qualifying Low-Income Customers. Pine Belt participates in Lifeline, and offers toll blocking in satisfaction of the FCC's requirement. Pine Belt provides toll blocking services for international calls and customer selected toll calls, and Pine Belt uses the same toll blocking technology to provide toll limitation for qualifying low-income customers, at no charge, as part of its universal service offerings.

¹¹ *Id.* at 8826-27, ¶ 90.

¹² *Id.*

C. Pine Belt Provides the Supported Services Using its Own Facilities

Pine Belt provides the supported services under Section 214(e)(1)(A) of the Act and Section 54.101(a) of the Commission's rules using Pine Belt's existing network infrastructure, consisting of switching, trunking, cell sites, and network equipment, together with any expansions and enhancements to that network. Pine Belt has the technical capability to maintain its facilities during emergency situations.

D. Pine Belt Will Advertise its Universal Service Offering

Pine Belt advertises the availability of its universal service offering, and the charges for the offering, using media of general distribution. Currently, Pine Belt employs a variety of advertising media to promote its service offerings, including television, radio and newspaper advertising, and its website. Pine Belt's advertising plan is designed to fully inform consumers within its designated service area of its universal service offering. Pine Belt also will provide notice of its service offering in local unemployment, social security and welfare offices. It will publicize construction of new facilities in unserved or underserved areas.

E. Additional Commitments and Certifications

1. All Federal High Cost Support shall be used consistent with the Act. Pine Belt certifies that, consistent with 54.314 of the Commission's rules, all federal high cost support will be used solely for the provision, maintenance and upgrading of facilities and services for which support is intended pursuant to Section 254(e) of the Act.

2. Commitment to Provide Service to Rural Customers. Pine Belt commits that it will provide Alabama rural customers with services comparable to services provided in rural areas by other telecommunications carriers in those areas.

3. Commitment to Provide Service to Requesting Customers. When Pine Belt receives requests for service from residents and businesses in the designated service area,

Pine Belt will provide service promptly, where available. If Pine Belt receives a request from a potential customer within its licensed service area but outside existing network coverage, Pine Belt will evaluate all feasible means of providing services, including adjustments to network facilities, modification of customer equipment or construction of additional facilities, or provision of resold services. If after evaluating all feasible options, Pine Belt cannot meet a request for service, Pine Belt will notify the requesting party, and the Commission within 30 days of making such a determination. Pine Belt will provide the Commission with an annual report of how many, if any, requests for service were unfulfilled during the year. Pine Belt acknowledges the Commission's authority to review any complaints that may arise from any potential service provisioning disputes. Pine Belt commits to be responsive to requests for service, and diligent in its efforts to meet the needs of customers and potential customers. Pine Belt commits to using universal support funds in an appropriate manner to provide service to customers in rural Alabama.

4. Commitment to Upgrade Facilities and Technology. Pine Belt has developed a five-year network improvement plan submitted as Exhibit 4. This plan details plans for network improvements on a year-by-year basis for the next five years, and demonstrates how Pine Belt will use universal service funds to improve coverage, signal strength, and capacity of its network.

5. Commitment to Improve Quality of Service. Pine Belt understands the needs of its market area, and will provide quality services to its customers in Alabama. Pine Belt commits to abide by the CTIA Code for Wireless Service for its service territory.

6. Provision of Service During Emergencies. Pine Belt has reasonable back-up power sufficient to provide service during power outages and other emergencies. Pine Belt

also can re-route traffic, if necessary to deal with outages, damaged facilities and high network traffic.

7. Requested Service Areas Include Entire Study Areas. Pine Belt seeks designation as an eligible telecommunications carrier to provide wireless service in the Alabama wireline exchange areas listed in Exhibit 3. This service territory includes rural areas served by incumbent telephone company affiliate Pine Belt Telephone Company, and other rural incumbent telephone company service territories depicted on the map and wire service chart included in Exhibit 3. Pine Belt requests ETC authority for the entire study areas listed on Exhibit 3. No service area redefinition is requested, and Pine Belt will not “creamskim” any rural areas, because Pine Belt intends to serve the entire requested rural areas.

8. Submission of Reports. Pine Belt will submit to the Commission reports on an annual basis, including (i) progress reports regarding its build-out plans; (ii) information about any outage lasting longer than 30 minutes and potentially affecting either its 911 facilities or at least 10 percent of the end users served; (iii) the number of requests for service from potential customers within Pine Belt’s service area that were unfulfilled for the past year; (iv) the number of consumer complaints per 1000 handsets in service; (v) information about compliance with the CTIA Consumer Code; (vi) certification that it is offering a local usage plan comparable to the local incumbent carriers; (vii) information about its provision of emergency service; and (viii) acknowledgement that the Commission may require it to provide equal access to long distance carriers if no other ETC in the area is providing equal access in the service territory.

9. Minimal Impact on the Universal Service Fund. As Pine Belt demonstrates in Exhibit 5, the Commission’s grant of ETC authority to Pine Belt for its rural service area will have minimal impact on the universal service fund in Alabama.

III. DESIGNATING PINE BELT AS AN ETC IS IN THE PUBLIC INTEREST

The designation of Pine Belt as ETC for the requested rural service territory clearly is in the public interest. *Pine Belt demonstrates in this Petition, in accordance Commission rules and policies, and consistent with the public interest analysis set forth in the Commission's Virginia Cellular decision,*¹³ that grant of Pine Belt's request will increase competitive choice in the designated rural Alabama service area; will have minimal impact on the universal service fund; and will provide quality services in an expeditious fashion to consumers in rural Alabama.

IV. ANTI-DRUG ABUSE CERTIFICATION

Pine Belt certifies that no party to this Petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.¹⁴

¹³ *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, 19 FCC Rcd 1563 (2004) ("*Virginia Cellular*").

¹⁴ 21 U.S.C. § 862. See attached Certification at Exhibit 1.

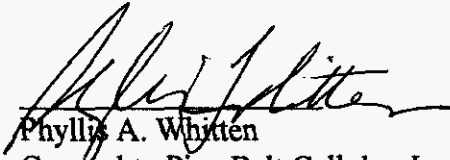
V. CONCLUSION

For the foregoing reasons Pine Belt respectfully requests ETC designation for the requested rural service territories in Alabama.

Respectfully Submitted,

PINE BELT CELLULAR, INC.

John C. Nettles, President
Pine Belt Cellular, Inc.
3984 County Road 32
Arlington, Alabama 36722


Phyllis A. Whitten
Counsel to Pine Belt Cellular, Inc.
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Date: March 2, 2006

EXHIBITS

Exhibit 1

Declaration of John C. Nettles

Exhibit 2

Order of the Alabama Public Service Commission

Exhibit 3

Map of Proposed Pine Belt ETC Service Territory and List of Wire Centers

Exhibit 4

Maps and Chart of Five-Year Construction Plan
(Confidential, Not for Public Inspection)

Exhibit 5

USF Fund Impact Analysis

Exhibit 6

CTIA Code for Wireless Service

CERTIFICATE OF SERVICE

I, Phyllis A. Whitten, hereby certify that on this 2nd day of March 2006, copies of the *foregoing Petition for Designation as an Eligible Telecommunications Carrier* were delivered via hand delivery to the parties marked with an asterisk, and by United States Postal Service First Class Mail to the following:

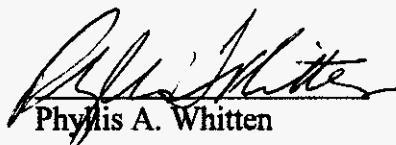
Marlene H. Dortch, Secretary*
Office of the Secretary
Federal Communications Commission
c/o Natek, Inc.
236 Massachusetts, Ave., N.E., Suite 110
Washington, D.C. 20002

Walter L. Thomas, Jr., Secretary
Alabama Public Service Commission
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Montgomery, Alabama 36101

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Adrian Wright*
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Administrative Law Judge John Garner
Alabama Public Service Commission
RSA Building
100 North Union Street
Suite 850
Montgomery, Alabama 36101


Phyllis A. Whitten

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Exhibit 5

USF Fund Impact Analysis

Exhibit 6

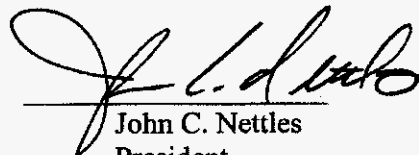
CTIA Code for Wireless Service

Exhibit 1

Declaration of John C. Nettles

I, John C. Nettles, do hereby declare under penalty of perjury as follows:

1. I am President of Pine Belt Cellular, Inc. ("Pine Belt").
2. This Declaration is submitted in support of Pine Belt's Petition for Designation as an Eligible Telecommunications Carrier ("Petition") to serve rural service areas in Alabama.
3. I declare and certify that I have read the foregoing Petition, and to the best of my knowledge, information and belief, all the facts stated in the Petition are true and correct.
4. I also declare that to the best of my knowledge, the Pine Belt companies, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or nonvoting) of Pine Belt as specified in Section 1.2002(b) of the Commission's rules are not subject to a denial of federal benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.


John C. Nettles
President

Date: 2/28/2006

Exhibit 2

Order of the Alabama Public Service Commission



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 991
MONTGOMERY, ALABAMA 36101-0991

JIM SULLIVAN, PRESIDENT
JAN ECKHART, ASSISTANT COMMISSIONER
GEORGE E. WALLACE, JR., ASSISTANT COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

**PINE BELT CELLULAR, INC. and PINE
BELT PCS, INC.,**

Joint Petitioners

**PETITION: For ETC status and/or
clarification regarding the jurisdiction
of the Commission to grant ETC status
to wireless carriers.**

DOCKET U-4400

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon").

The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

DOCKET U-4400 - #2

For carriers not subject to state jurisdiction, however, §214(e)(8) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural service territories if said carriers meet the requirements of §214(a)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(8) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 98-14 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, in any respect, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(8).

DOCKET U-4400 - #15

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.


IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION


Jim Sullivan, President


Jan Cook, Commissioner


George C. Wallace, Jr., Commissioner

ATTEST: A True Copy


Walter L. Thomas, Jr., Secretary



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 991
MONTGOMERY, ALABAMA 36101-0991

October 19, 2001

JIM SULLIVAN, PRESIDENT
JAN COOK, ASSOCIATE COMMISSIONER
GEORGE C. WALLACE, JR., ASSOCIATE COMMISSIONER

WALTER L. THOMAS, JR.
SECRETARY

Phyllis A. Whitten
Swidler Berlin, Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007-5116

Dear Ms. Whitten:

I am in receipt of the Application for ETC Status and Request for Clarification Regarding Jurisdiction which you filed with the Alabama Public Service Commission (the "APSC") on September 11, 2001, on behalf of your clients Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively "Pine Belt" or the "Pine Belt companies"). As noted in your filing, both Pine Belt companies are affiliated with Pine Belt Telephone Company, a provider of wireline telephone service in Alabama.

I understand from your filing that the Pine Belt companies provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services within Alabama in accordance with licenses granted by the Federal Communications Commission (the "FCC"). According to your representations, the service territories of the Pine Belt companies in Alabama include Alabama Rural Service Area 3B3 for cellular services and the Selma basic trading area (FCC market B415) for personal communications services.

3 B 2

As recognized in your filing, state commissions have primary responsibility under 47 USC §214(a) for the designation of eligible telecommunications carriers ("ETCs") in their respective jurisdictions for universal service purposes. The APSC established the guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997. As a threshold matter, your filing seeks clarification as to whether the APSC will assert jurisdiction over each Pine Belt company's request to be designated as a universal service eligible telecommunications carrier to provide wireless ETC service in the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. and Verizon South, Inc.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services and commercial mobile radio services is one that was rather recently addressed by the APSC. The APSC indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June

PHYLLIS A. WHITTEN
OCTOBER 19, 2001
PAGE #2

of 1999, the APSC has no authority to regulate in any respect cellular services, broadband personal communications services and commercial mobile radio services in Alabama.

Given the above conclusion by the APSC, it seems rather clear that the APSC has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction to provide wireless ETC service in the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. and Verizon South, Inc. The Pine Belt companies should instead pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

Although the views expressed herein are those of your writer and do not necessarily constitute an official action of the APSC, I am confident that this writing provides the clarification you requested concerning the ETC designation request of your clients. Should you need further clarification in order to pursue ETC designations for the Pine Belt companies at the FCC, please do not hesitate to contact me at (334) 242-5200.

Sincerely,



John A. Garner
Administrative Law Judge

JAG:klr

Exhibit 3

Map of Proposed Pine Belt ETC Service Territory and List of Wire Centers